



OFFICE OF THE DEPUTY CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

AUG 13 2014

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND
READINESS

SUBJECT: Uniform Formulary Beneficiary Advisory Panel – Membership Balance Plan and
Charter Renewal Approval

The membership balance plan (TAB A) and the charter renewal (TAB B) for the Uniform Formulary Beneficiary Advisory Panel (“the Panel”) are approved. A copy of the Panel’s charter and membership balance plan will be provided to the Panel’s Designated Federal Officer (DFO) once the Advisory Committee Management Officer (ACMO) files the charter with the Congressional oversight committees, the Library of Congress, and the General Services Administration.

As part of the charter renewal process, this office, in consultation with the Office of the General Counsel of the Department of Defense (OGC DoD), has affirmed that all individuals appointed to the Panel, once approved by the Secretary of Defense, shall be appointed to serve as special government employee (SGE) or regular government employee (RGE) members, as appropriate. The following points apply:

(a) Individual members approved for appointment or renewal by the Secretary of Defense, who are not full-time or permanent part-time Federal employees, shall be appointed as experts or consultants, pursuant to 5 U.S.C. § 3109, to serve as SGE members. Those who are full-time or permanent part-time Federal employees shall be appointed, pursuant to 41 C.F.R. § 102-3.130(a), to serve as RGE members.

(b) Each member shall be notified of the Secretary of Defense approval decision, in writing. In preparing your appointment or renewal of appointment letters, the Panel’s DFO should consult the ACMO and the OGC DoD, to include the Standards of Conduct Office. At a minimum, the letters shall contain the following:

- i. Notice that their appointment to serve on the Panel is without compensation, with the exception of reimbursement of official travel and per diem.
- ii. A statement that they are appointed to serve as SGE or RGE members, as appropriate.
- iii. An explanation of the difference between serving as SGE and representative members.
- iv. A summary of the applicable ethics requirements, to include whether SGE members are required to file a Confidential Financial Disclosure Report.

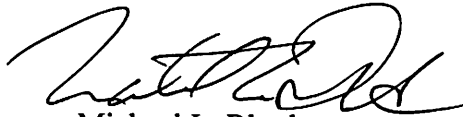
As the Panel’s DoD Sponsor, you are responsible for:

- (a) Ensuring that the Panel's DFO attends all Panel and subcommittee meetings for the entire duration of each and every meeting.
- (b) Ensuring that the DFO and the Panel fully comply with all governing Federal statutes and regulations, DoD Instruction 5105.04, "Department of Defense Federal Advisory Committee Management Program," and policy decisions by the Secretary of Defense or the Director of Administration and Management.
- (c) Ensuring that all work done by the Panel and its subcommittees is based upon written tasks or terms of reference assigned to the Panel by the Secretary of Defense, the Deputy Secretary of Defense, or you, as the DoD Sponsor. All tasks or terms of reference are subject to public review and, at a minimum, shall include:
 - i. A description of the problem or policy to be analyzed and the DoD decision maker for the matter(s) under consideration.
 - ii. Authority for the members of the Panel or its subcommittees to access DoD officials and DoD data that is pertinent to the matter(s) under consideration.
 - iii. A budget limitation under which the Panel or its subcommittees must operate.
 - iv. A date by which the Panel must submit its written conclusions (advice and recommendations) to the DoD decision maker.
- (d) Providing adequate support to the Panel and its subcommittees, and ensuring that the Panel and its subcommittees are not unduly or inappropriately influenced by Federal employees or any special interest group.
- (e) Ensuring that all visits to DoD installations or facilities, by members of the Panel and its subcommittees, are done in consultation with the Secretary of the Military Departments or the Chairman of the Joint Chiefs of Staff, as appropriate.
- (f) Ensuring that all members of the Panel and its subcommittees are appointed according to DoD policies and procedures. No member will participate in any work by the Panel or its subcommittees until all of the following have been completed: the member completes and submits to the DoD all personnel and ethics paperwork required for his or her appointment; the appropriate DoD offices process the individual's personnel and ethics paperwork; and the individual takes the oath of office for his or her appointment.
- (g) Ensuring that all DoD and other Federal Agency documents provided to the Panel or its subcommittees are properly marked according to governing statutes, regulations, and DoD policies and procedures.
- (h) Monitoring the implementation status of any recommendation adopted by the DoD and ensuring that this information is available for future inquiries.

Based on the Secretary of Defense's memorandum dated October 9, 2012, concerning advisory committees, we recommend you continually reevaluate the Panel's functions and

reduce, where appropriate, the Panel's operating costs. As the Secretary indicated, we must continually assess our advisory committees to ensure that they deliver appropriate value today and in the future as times and requirements change.

If you should have any questions about this DoD Program, the Federal governance and compliance requirements, the charter renewal, or the membership balance plan, please contact the ACMO, Mr. Jim Freeman, at 703-692-5952, or by email at james.d.freeman4.civ@mail.mil.

A handwritten signature in black ink, appearing to read "Michael L. Rhodes", written in a cursive style.

Michael L. Rhodes
Director

Attachments:
As stated

A

Membership Balance Plan
Uniform Formulary Beneficiary Advisory Panel

Agency: Department of Defense (DoD)

1. Authority: The Secretary of Defense, pursuant to 10 U.S.C. § 1074g(c) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 C.F.R. § 102-3.50(d), established the Uniform Formulary Beneficiary Advisory Panel (“the Panel”).
2. Mission/Function: Pursuant to 10 U.S.C. § 1074g(c)(1), the Panel shall provide the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Assistant Secretary of Defense for Health Affairs (ASD(HA)), and the Director, Defense Health Agency, independent advice and recommendations on the development of the uniform formulary. The Secretary of Defense shall consider the comments of the Panel before implementing the uniform formulary or implementing changes to the uniform formulary.
3. Points of View: The Panel, pursuant to 10 U.S.C. § 1074g(c)(2), shall be comprised of no more than 15 members and shall include members that represent:
 - a. Non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;
 - b. Contractors responsible for the TRICARE retail pharmacy program;
 - c. Contractors responsible for the national mail-order pharmacy program; and
 - d. TRICARE network providers.

Panel members, who are not full-time or permanent part-time Federal employees, shall be appointed as experts or consultants, pursuant to 5 U.S.C. § 3109, to serve as special government employee (SGE) members. Panel members, who are full-time or permanent part-time Federal employees, shall be appointed, pursuant to 41 C.F.R. § 102-3.130(a), to serve as regular government employee (RGE) members.

The DoD, in selecting potential candidates for the Panel, reviews the educational and professional credentials of individuals and bases its selection on this review and the subject matters being handled by the Panel. The Department has found that viewing the complex issues facing the DoD through a multi-disciplinary advisory committee, provides the Department and, more importantly, the American public with a broader understanding of the issues on which to base subsequent policy decisions. Members of the Panel are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

The Panel’s membership is not static and the Secretary of Defense may change the membership based upon work assigned to the Panel by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(P&R) as the Panel’s Sponsor. In addition, the Department, unless otherwise required by statute or Presidential directive, does not use representative members on DoD established or supported advisory committees.

4. Other Balance Factors: N/A
5. Candidate Identification Process: The DoD, in selecting potential candidates for the Panel, reviews the educational and professional credentials of individuals with extensive backgrounds in

**Membership Balance Plan
Uniform Formulary Beneficiary Advisory Panel**

organizations that represent the views and interests of a large number of eligible covered beneficiaries; contractors responsible for the TRICARE retail pharmacy program; contractors responsible for the national mail-order pharmacy program; and TRICARE network providers as required by 10 U.S.C. § 1074g(c)(2). Potential candidates are identified by the Panel's Designated Federal Officer, DoD professional staff members, and stakeholders.

Once potential candidates are identified, the ASD(HA) in consultation with the Director, Defense Health Agency reviews the credentials of each individual and narrows the list of potential candidates. During the ASD(HA) review, he or she strives to achieve a balance between the educational and professional credentials of the individuals and the anticipated subject matters to be reviewed by the Panel to achieve expertise in terms of points of view represented and functions to be performed.

After the list of candidates has been narrowed, it is forwarded to the USD(P&R) for review and formal nomination to the Secretary of Defense or the Deputy Secretary of Defense. Prior to nominating the potential candidates, the list will undergo a review by the Office of General Counsel of the Department of Defense and the Office of the Advisory Committee Management Officer to ensure compliance with Federal and DoD governance requirements, including compliance with the Panel's charter and membership balance plan. Following this review, the USD(P&R) formally nominates the potential candidates to the Secretary of Defense or the Deputy Secretary of Defense for approval. Pursuant to DoD policy, only the Secretary of Defense or the Deputy Secretary of Defense can invite or approve the appointment of individuals to serve on DoD established or supported advisory committees and subcommittees.

Following approval by the Secretary of Defense or the Deputy Secretary of Defense, the candidates are required to complete the necessary appointment paperwork, to include meeting ethics requirements stipulated by the Office of Government Ethics for advisory committee members who are appointed as SGE members.

The Secretary of Defense or the Deputy Secretary of Defense may approve the appointment of members to the Panel, to include its subcommittees, for one-to-four year terms of service, with annual renewals. However, no member, unless authorized by the Secretary of Defense or the Deputy Secretary of Defense, may serve more than two consecutive terms of service on the Panel, to include its subcommittees.

Membership vacancies for the Panel and its subcommittees will be filled in the same manner as described in the previous five paragraphs above.

6. **Subcommittee Balance:** The Department, when necessary and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees, task groups, or working groups to support the Panel.

The Secretary of Defense or the Deputy Secretary of Defense shall approve the appointment of subcommittee members in the same manner as members of the Panel, to include annual renewals. Individuals considered for appointment to any subcommittee of the Panel may come from the Panel itself or from new nominees, as recommended by the USD(P&R) and based upon the subject matter

**Membership Balance Plan
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under consideration, but they must be approved by the Secretary of Defense or the Deputy Secretary of Defense before participating in any subcommittee work.

Subcommittee members, who are not full-time or permanent part-time Federal employees, shall be appointed as experts or consultants, pursuant to 5 U.S.C. § 3109, to serve as SGE members. Those individuals who are full-time or permanent part-time Federal employees shall be appointed, pursuant to 41 C.F.R. § 102-3.130(a), to serve as RGE members.

7. Other: As nominees are considered for appointment to the Panel, the DoD adheres to the rules and regulations issued by the Office of Management and Budget's Final Guidance on Appointment of Lobbyists to Federal Panels and Commissions (76 FR 61756; October 5, 2011) and the rules and regulations issued by the Office of Government Ethics.
8. Date Prepared:

B

Charter
Uniform Formulary Beneficiary Advisory Panel

1. Committee's Official Designation: The Committee will be known as the Uniform Formulary Beneficiary Advisory Panel ("the Panel").
2. Authority: The Secretary of Defense, pursuant to 10 U.S.C. 1074g(c) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 C.F.R. § 102-3.50(a), established the Panel.
3. Objectives and Scope of Activities: The Panel shall provide independent advice and recommendations on the development of the uniform formulary, as described further in paragraph four below.
4. Description of Duties: As directed by 10 U.S.C. 1074g(c)(1), the Panel shall provide the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Assistant Secretary of Defense for Health Affairs (ASD(HA)), and the Director, Defense Health Agency (DHA), independent advice and recommendations on the development of the uniform formulary. The Secretary of Defense shall consider the comments of the Panel before implementing the uniform formulary or implementing changes to the uniform formulary.
5. Agency or Official to Whom the Committee Reports: The Panel shall report to the Secretary of Defense or the Deputy Secretary of Defense through the USD(P&R), the ASD(HA), and the Director, DHA. The USD(P&R), or designated representative, may act upon the Panel's advice and recommendations.
6. Support: The Department of Defense (DoD), through the Office of the USD(P&R) and the DHA, shall provide support, as deemed necessary, for the Panel's performance of its functions and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b, as amended) ("the Sunshine Act"), governing Federal statutes and regulations, and established DoD policies and procedures.
7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating cost, to include travel, meetings, and contract support, is approximately \$71,000. The estimated annual personnel cost to the DoD is 0.25 full-time equivalents.
8. Designated Federal Officer: The Panel's Designated Federal Officer (DFO) shall be a full-time or permanent part-time DoD employee appointed pursuant to governing DoD policies and procedures.

The Panel's DFO is required to be in attendance at all meetings of the Panel and any subcommittees for the entire duration of each and every meeting. However, in the absence of the Panel's DFO, a properly approved Alternate DFO, duly appointed to the Panel according to established DoD policies and procedures, shall attend the entire duration of all meetings of the Panel and its subcommittees.

The DFO, or Alternate DFO, shall call all meetings of the Panel and its subcommittees; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate

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Uniform Formulary Beneficiary Advisory Panel

DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

9. Estimated Number and Frequency of Meetings: The Panel shall meet at the call of the Panel's DFO, in consultation with the Panel's Chair. The estimated number of Panel meetings is four per year.
10. Duration: The need for this advisory function is on a continuing basis; however, this charter is subject to renewal every two years.
11. Termination: The Panel shall terminate upon rescission of 10 U.S.C. § 1074g(c).
12. Membership and Designation: The Panel, pursuant to 10 U.S.C. § 1074g(c)(2), shall be comprised of no more than 15 members. The panel shall include members that represent:
 - a. Non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;
 - b. Contractors responsible for the TRICARE retail pharmacy program;
 - c. Contractors responsible for the national mail-order pharmacy program; and
 - d. TRICARE network providers.

The Panel members shall be appointed by the Secretary of Defense or the Deputy Secretary of Defense, and their appointments shall be renewed on an annual basis in accordance with DoD policies and procedures. Individuals who are not full-time or permanent part-time Federal employees shall be appointed as experts or consultants, pursuant to 5 U.S.C. § 3109, to serve as special government employee (SGE) members. Individuals who are full-time or permanent part-time Federal employees shall be appointed, pursuant to 41 C.F.R. § 102-3.130(a), to serve as regular government employee (RGE) members. Panel members shall serve a term of service of one-to-four years, and no member may serve more than two consecutive terms of service without the Secretary of Defense or the Deputy Secretary of Defense approval. This term of service limitation also applies to any DoD authorized subcommittees.

All members of the Panel are appointed to provide advice on the basis of their best judgment without representing any particular points of view and in a manner that is free from conflict of interest.

Panel members will serve without compensation except for reimbursement of travel and per diem as it pertains to official business of the Panel.

13. Subcommittees: The Department, when necessary and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Panel. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(P&R), as the Panel's Sponsor.

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Such subcommittees shall not work independently of the Panel and shall report all of their recommendations and advice solely to the Panel for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Panel. No subcommittee or any of its members can update or report, verbally or in writing, on behalf of the Panel, directly to the DoD or any Federal officers or employees.

The Secretary of Defense or the Deputy Secretary of Defense will appoint subcommittee members to a term of service of one-to-four years, with annual renewals, even if the member in question is already a member of the Panel.

Subcommittee members, if not full-time or permanent part-time Federal employees, shall be appointed as experts or consultants, pursuant to 5 U.S.C. § 3109, to serve as SGE members. Those individuals who are full-time or permanent part-time Federal employees shall be appointed, pursuant to 41 C.F.R. § 102-3.130(a), to serve as RGE members. With the exception of reimbursement for official travel and per diem related to the Panel or its subcommittees, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

14. Recordkeeping: The records of the Panel and its subcommittees shall be handled according to section 2, General Records Schedule 26, and governing DoD policies and procedures. These records will be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).

15. Filing Date:

C

CHARTER
UNIFORM FORMULARY BENEFICIARY ADVISORY PANEL

1. Committee's Official Designation: The Committee shall be known as the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as "the Panel").
2. Authority: The Secretary of Defense, under the provision of 10 U.S.C. § 1074g(c), the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), and 41 CFR § 102-3.50(a) (required by statute), established the Panel.
3. Objectives and Scope of Activities: The Panel shall provide independent advice and recommendations on the development of the uniform formulary, as set forth in paragraph four below.
4. Description of Duties: The Panel shall provide the Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness, the Assistant Secretary of Defense for Health Affairs, and the Director, TRICARE Management Activity, independent advice and recommendations on the development of the uniform formulary. The Secretary of Defense shall consider the comments of the Panel before implementing the uniform formulary or implementing changes to the uniform formulary.
5. Agency or Official to Whom the Committee Reports: The Panel shall report to the Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness, the Assistant Secretary of Defense for Health Affairs, and the Director, TRICARE Management Activity. The Under Secretary of Defense for Personnel and Readiness, or designated representative, may act upon the Panel's advice and recommendations.
6. Support: The Department of Defense (DoD), through the Office of the Under Secretary of Defense for Personnel and Readiness and the TRICARE Management Activity, shall provide support, as deemed necessary, for the performance of the Panel's functions, and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b) (hereinafter referred to as "the Government in the Sunshine Act"), governing Federal statutes and regulations, and governing DoD policies/procedures.

Additional information and assistance, as required, may be obtained from other DoD Components with contracting authority and from support contractors, including DoD Federally Funded Research and Development Centers for studies and analysis support.

7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating cost to include travel, meetings, and contract support, is approximately \$85,500.00. The estimated annual personnel costs to the DoD are 0.25 full-time equivalents.

8. Designated Federal Officer (DFO): The DFO, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with governing DoD policies/procedures.

In addition, the DFO is required to be in attendance at all Panel and subcommittee meetings for the entire duration of each and every meeting; however, in the absence of the DFO, a properly approved Alternate DFO shall attend the entire duration of the Panel or subcommittee meeting.

The DFO, or the Alternate DFO, shall call all of the Panel's and subcommittee's meetings; prepare and approve all meeting agendas; adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the official to whom the Panel reports.

9. Estimated Number and Frequency of Meetings: The Panel shall meet at the call of the Panel's DFO, in consultation with the Panel's Chairperson. The estimated number of Panel meetings is four per year.
10. Duration: The need for this advisory function is on a continuing basis; however, this charter is subject to renewal every two years.
11. Termination: The Panel shall terminate upon rescission of 10 U.S.C. § 1074g(c).
12. Membership and Designation: The Panel, pursuant to 10 U.S.C. § 1074g(c)(2), shall be comprised of no more than 15 members. The Panel shall include members that represent:
- a. Non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;
 - b. Contractors responsible for the TRICARE retail pharmacy program;
 - c. Contractors responsible for the national mail-order pharmacy program; and
 - d. TRICARE network providers.

Panel members shall be appointed by the Secretary of Defense. Membership is renewed on an annual basis, and those members, who are not full-time or permanent part-time Federal officers or employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109 and shall serve as special government employees.

The Panel membership shall select the Panel's Chairperson from the total membership.

Panel members shall, with the exception of travel and per diem for official Panel-related travel, serve without compensation, unless otherwise authorized by the Secretary of Defense.

The Secretary of Defense may approve the appointment of Panel members for one-to-four year terms of service; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service. This same term of service limitation also applies to any DoD authorized subcommittees. Each Panel member is appointed to provide advice on behalf of the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

13. Subcommittees: With DoD approval, the Panel shall be authorized to establish subcommittees, as required and consistent with its mission and DoD policies and procedures. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Panel's sponsor.

Such subcommittees shall not work independently of the chartered Panel, and shall report all their recommendations and advice solely to the Panel for full deliberation and discussion. Subcommittees have no authority to make decisions and recommendations, verbally or in writing, on behalf of the chartered Panel; nor can any subcommittee or its members update or report directly to the DoD or any Federal officers or employees.

All subcommittee members shall be appointed in the same manner as the Panel members; that is, the Secretary of Defense shall appoint subcommittee members even if the member in question is already a Panel member. Subcommittee members, with the approval of the Secretary of Defense, may serve a term of service on the subcommittee of one-to-four years.

Subcommittee members, if not full-time or part-time government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109, and shall serve as special government employees, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official Panel related travel, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Government in the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies/procedures.

14. Recordkeeping: The records of the Panel and its subcommittees shall be handled according to section 2, General Record Schedule 26, and appropriate DoD policies and procedures. These records shall be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).
15. Filing Date: August 1, 2012